



BILLING CODE: 4410-09-P

**DEPARTMENT OF JUSTICE
Drug Enforcement Administration**

**Angela L. Lorenzo, P.A.
Decision and Order**

On December 18, 2017, the Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Angela L. Lorenzo, P.A. (Registrant), of Las Vegas, Nevada. The Show Cause Order proposed the revocation of Registrant's Certificate of Registration No. ML0901985 on the ground that she lacks "authority to handle controlled substances in the State of Nevada, the State in which [she is] registered with the DEA." Order to Show Cause, Government Exhibit (GX) A-3, at 1 (citing 21 U.S.C. § 824(a)(3)).¹ For the same reason, the Order also proposed the denial of any of Registrant's "pending applications for a new registration or for renewal." *Id.*

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Registrant is registered as a practitioner in schedules II through V, pursuant to DEA Certificate of Registration No. ML0901985, at the address of 811 N. Buffalo Road, Suite 113, Las Vegas, Nevada. *Id.* at 1-2. The Order also alleged that this registration does not expire until March 31, 2018. *Id.* at 2.

As substantive grounds for the proceeding, the Show Cause Order alleged that on September 29, 2017, the Nevada State Board of Medical Examiners (hereinafter NSBME) "issued an Order of Summary Suspension immediately and indefinitely suspending [her] license

¹ The Show Cause Order also proposed that Registrant's DEA registration should be revoked because she "committed acts which render [her] registration inconsistent with the public interest." GX 3, at 1 (citing 21 U.S.C. §§ 823(f), 824(a)(4)). However, the Government did not include evidence to support this allegation with its Request for Final Agency Action (RFFA). Instead, the Government requested "leave to supplement its [R]equest to include the grounds for revocation under 21 U.S.C. §§ 823(f), 824(a)(4)" should Registrant "regain her Nevada state license during the pendency of this Request for Final Agency Action." RFFA at 1 n.1. The Government has not filed a request to supplement its RFFA, apparently because Registrant has not regained her Nevada state medical license. Accordingly, I do not consider the Government's public interest allegation.

to practice medicine in the State of Nevada.” *Id.* The Order alleged that, “[a]s a result, [she is] currently without authority to practice medicine or handle controlled substances in the State of Nevada, the [S]tate in which [she is] registered with the DEA.” *Id.* Based on her “lack of authority to handle controlled substances in the State of Nevada,” the Order asserted that “DEA must revoke” her registration. *Id.* (citing 21 U.S.C. §§ 823(f), 824(a)(3)).

The Show Cause Order notified Registrant of her right to request a hearing on the allegations or to submit a written statement in lieu of a hearing, the procedure for electing either option, and the consequence for failing to elect either option. *Id.* at 4 (citing 21 CFR 1301.43). The Show Cause Order also notified Registrant of her right to submit a corrective action plan. *Id.* at 4-5 (citing 21 U.S.C. § 824(c)(2)(C)).

The Government states that on December 19, 2017, a Data Analyst in DEA’s Office of Chief Counsel sent a copy of the Show Cause Order by first-class mail to (1) the post office box address provided by Registrant as the “mail to” address on her DEA registration, P.O. Box 36190, Las Vegas, Nevada, and (2) her registered address of 911 N. Buffalo Road, Suite 113, Las Vegas, Nevada. Government’s “Request for Final Agency Action” (RFFA), at 2 n.2, 3; GX B (Declaration of Data Analyst) at 1-2. The Government also states that only the mailing to the registered address was returned as undeliverable. *See id.* Also, on December 19, 2017, a Diversion Investigator (DI) “emailed a copy of the [Show Cause Order] to” the “contact email” address that Registrant had provided to the Agency on her DEA registration without receiving “any error messages indicating that the email was not successfully sent” or “any notifications that the email was undeliverable.” RFFA, at 3; GX A (Declaration of the Diversion Investigator), at 2.² Based on these facts, I find that the Government’s attempts to serve

² On December 19, 2017, Government counsel represents that he “provided” a copy of the Show Cause Order to the attorney representing Registrant in the underlying NSBME proceeding. RFFA, at 2 n.3. On January 4, 2018,

Registrant with the Show Cause Order satisfied its obligation under the Due Process Clause “to provide ‘notice reasonably calculated, under all circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.’” *Emilio Luna, M.D.*, 77 FR 4829, 4829 (2012) (quoting *Jones v. Flowers*, 547 U.S. 220, 226 (2006) (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950))).

On February 1, 2018, the Government forwarded its Request for Final Agency Action and an evidentiary record to my Office. Therein, the Government represents that it has received neither a hearing request nor a written statement from Registrant regarding the Show Cause Order. RFFA, at 2. Based on the Government’s representation and the record, I find that more than 30 days have passed since the Order to Show Cause was served on Registrant, and she has neither requested a hearing nor submitted a written statement in lieu of a hearing. *See* 21 CFR 1301.43(d). Accordingly, I find that Registrant has waived her right to a hearing or to submit a written statement and issue this Decision and Order based on relevant evidence submitted by the Government. I make the following findings.

FINDINGS OF FACT

Registrant is a physician’s assistant who is registered as a practitioner in schedules II-V pursuant to Certificate of Registration No. ML0901985,³ at the address of 911 N. Buffalo Rd.

that attorney emailed Government counsel “to advise [him] that, as of today, I no longer represent Ms. Lorenzo . . . but she is advised of her obligation to respond to the Order to Show Cause.” RFFA, at 2 n.3; GX C (copy of email from Registrant’s former attorney to Government counsel).

³ The RFFA did not attach a copy of Registrant’s DEA Certificate of Registration. However, I take official notice that the Agency’s registration records show that Registrant obtained a registration as a mid-level practitioner-physician assistant on December 19, 2002, in schedules II through V, and last renewed her registration on April 15, 2015. According to the Agency’s records, she has not submitted an application for renewal of her registration.

Under the Administrative Procedure Act (APA), an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” U.S. Dept. of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA’s regulations, Registrant is “entitled on timely request to an opportunity to show to the contrary.” 5 U.S.C. § 556(e); *see also* 21 CFR 1316.59(e).

Ste. 113, Las Vegas, Nevada.⁴ Her registration does not expire until March 31, 2018. *See supra* footnote 3.

On September 28, 2017, the Investigative Committee (IC) of the NSBME issued an “Order of Summary Suspension” to Registrant that “**IMMEDIATELY SUSPENDS** [her] license to practice medicine.” GX A-1, at 1. Specifically, the IC suspended Registrant’s license to practice medicine in the State of Nevada because “the health, safety and welfare of the public is at imminent risk of harm by [Registrant’s] continued performance of medical services without supervision, including the prescription of controlled substances, . . . her dishonest conduct, and . . . her continued refusal to comply with the lawful Orders of the [NSBME].” *Id.* at 2.⁵ In light of the passage of time since the effective date of the Order, I have queried the NSBME website regarding the status of Registrant’s medical license, and I take official notice that Registrant’s Nevada medical license remains suspended as of the date of this decision.⁶

Thus, I find that that the IC’s Order suspending Registrant from practicing medical services, which it stated includes dispensing controlled substances, independently bars Registrant from dispensing controlled substances in Nevada. *Accord* Nev. Rev. Stat. §§ 630.160 (2015) (“Every person desiring to practice medicine must, before beginning to practice, procure from

⁴ The Show Cause Order states that the registered address is at 811 N. Buffalo Road, Suite 113, Las Vegas, Nevada, even though the DEA registration shows a registrant address at 911 N. Buffalo Road. In addition, the top of the Show Cause Order was addressed to Registrant at 911 N. Buffalo Road, consistent with the registration. Accordingly, I find that Registrant’s address is 911 N. Buffalo Road, Suite 113, Las Vegas, Nevada, and I deem the Show Cause Order’s reference to 811 N. Buffalo Road a scrivener’s error.

⁵ In its Order, the IC found, *inter alia*, that on September 6, 2017, “IC staff personally notified [Registrant] at her offices located at 911 N. Buffalo Drive, Suite 113, Las Vegas, NV” that she was prohibited under Nevada law “from performing medical services until she obtained a supervising physician licensed and approved” by the NSBME. *Id.* at 2. Although Registrant advised the IC on September 6, 2017 “verbally and in writing that she would cease practicing,” on September 11, 2017, she nevertheless wrote a prescription for Phentermine, a [s]chedule IV controlled substance.” *Id.* The IC found that this conduct demonstrated that Registrant “perform[ed] medical services, including the prescription of controlled substances,” (1) in violation of Nevada law’s requirement of physician supervision and (2) in “direct contradiction to her prior written statement . . . on September 6, 2017.” *Id.*

⁶ I take official notice under the authority set forth *supra* in footnote 3.

the [NSBME] a license authorizing the person to practice.”); 630.020 (defining “[p]ractice of medicine” to include prescribing). Based on the above, I find that Registrant does not currently have authority under the laws of Nevada to dispense controlled substances.⁷

DISCUSSION

Pursuant to 21 U.S.C. § 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of Title 21, “upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a registration. *See, e.g., James L. Hooper*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 Fed. Appx. 826 (4th Cir. 2012); *see also Frederick Marsh Blanton*, 43 FR 27616 (1978) (“State authorization to dispense or otherwise handle controlled substances is a prerequisite to the issuance and maintenance of a Federal controlled substances registration.”).

This rule derives from the text of two provisions of the CSA. First, Congress defined “the term ‘practitioner’ [to] mean[] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. § 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is

⁷ Registrant’s DEA registration information states that Registrant had a Nevada Controlled Substance License No. CS12166, but that it expired on October 31, 2016. I have queried the NSBME website regarding the status of Registrant’s controlled substance license, and I take official notice (*see supra* footnote 3) that Nevada’s online list of holders of active controlled substance licenses does not include Registrant by name or by her Nevada controlled substance registration number.

authorized to dispense . . . controlled substances under the laws of the State in which [s]he practices.” 21 U.S.C. § 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever she is no longer authorized to dispense controlled substances under the laws of the State in which she engages in professional practice. *See, e.g., Calvin Ramsey*, 76 FR 20034, 20036 (2011); *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci*, 58 FR 51104, 51105 (1993); *Bobby Watts*, 53 FR 11919, 11920 (1988); *Blanton*, 43 FR 27616 (1978).

Thus, “the controlling question” in a proceeding brought under 21 U.S.C. § 824(a)(3) is whether the holder of a practitioner’s registration “is currently authorized to handle controlled substances in the [S]tate,” *Hooper*, 76 FR at 71371 (quoting *Anne Lazar Thorn*, 62 FR 12847, 12848 (1997)). Here, Registrant is no longer currently authorized to dispense controlled substances in Nevada, the State in which she is registered with the Agency. I will therefore revoke her DEA registration, deny any pending application to modify her registration, or any pending application for any other registration in Nevada.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. §§ 823(f) and 824(a), as well as 28 CFR 0.100(b), I order that DEA Certificate of Registration No. ML0901985, issued to Angela L. Lorenzo, P.A., be, and it hereby is, revoked. I further order that any pending application of Angela L. Lorenzo to renew or modify the above registration, or any pending application of Angela L. Lorenzo for any other registration in the State of Nevada, be, and it hereby is, denied. This Order is effective immediately.⁸

Dated: March 24, 2018.

Robert W. Patterson,
Acting Administrator.

⁸ For the same reasons that led the NSBME to suspend Registrant's license, I find that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

